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American Family Mutual Insurance Company

7 UNITED STATES DISTRICT COURT
8 DISTRICT OF NEVADA

9 NOVELLA WELLINGTON, individually,

10 Plaintiffs,

11 vs.

12 AMERICAN FAMILY MUTUAL
13 INSURANCE COMPANY, a Wisconsin
14 Corporation; DOES I through X, and ROE
CORPORATIONS I through V, inclusive,

15 Defendants.

CASE NO.: 2:10-cv-00757-GMN-RJJ

16 **ARBITRATION AGREEMENT**

17 **STIPULATION TO SUBMIT TO PRIVATE BINDING ARBITRATION**

18 IT IS HEREBY STIPULATED AND AGREED by and between Plaintiff, NOVELLA
19 WELLINGTON, and Defendant AMERICAN FAMILY MUTUAL INSURANCE COMPANY,
20 that the above-captioned personal injury and underinsured motorist claim of Plaintiff be
21 submitted to Private Binding Arbitration.

22 1. IT IS STIPULATED AND AGREED that the aforenoted claim will be submitted to
23 Joseph Bongiovi, who shall serve as Arbitrator and that save and except for the provisions set
24 forth in paragraph Six (6) of this agreement, the Defendant shall pay the Arbitrator's fees and
25 costs, the Plaintiff may seek any damages allowed her under Nevada law.

26 2. IT IS FURTHER STIPULATED AND AGREED that none of the parties shall advise

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1 the Arbitrator of any of the involved insurance coverages, offsets, "Caps" , "Lows" and/or
2 coverage limits.

3 3. IT IS FURTHER STIPULATED AND AGREED that the terms of this arbitration
4 shall incorporate a minimum "Low" of \$0.00 and a \$100,000.00 "Cap" with respect to Plaintiff's
5 underinsured motorist claims against AMERICAN FAMILY, said "Cap" representing Plaintiff's
6 underinsured motorist limits for one occurrences of \$100,000.00 for one person.
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8 4. IT IS FURTHER STIPULATED AND AGREED that none of the parties shall reveal
9 to the Arbitrator the "Caps" and/or offsets set forth above or any of the arbitration terms until
10 after the Arbitration Award is made.

11 5. IT IS FURTHER STIPULATED AND AGREED that if any party breaches the
12 confidentiality requirements relative to (1) the amount of offsets, (2) the range of award that the
13 parties have agreed upon, or (3) the amount of insurance coverage applicable to this claim, any
14 of the other parties may request an arbitration hearing de novo with a different arbitrator.
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16 6. IT IS FURTHER STIPULATED AND AGREED that only those documents produced
17 prior to the Arbitration Hearing may be introduced as evidence at the time of the Arbitration
18 Hearing, including, but not limited to, medical records, billing records, wage loss documentation,
19 affidavits and deposition testimony. Further, that any documents or witnesses not previously
20 disclosed shall be produced and disclosed no later than 20 days prior to the Arbitration Hearing.
21 If any new documents or witnesses are disclosed by one party, the other party may have 10 days
22 in which to identify rebuttal witnesses/documents.
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24 7. IT IS FURTHER STIPULATED AND AGREED that at the arbitration hearing, all
25 parties may be heard and the parties may present testimony by deposition, in person, by affidavit
26 or telephonically, from witnesses timely produced pursuant to the terms of this agreement and
27 having knowledge of or testimony concerning the facts of the incident giving rise to the instant
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1 claim or alleged damages. No witnesses/documents may be referenced or entered into evidence
2 at the Arbitration Hearing unless timely produced pursuant to the terms of this Stipulation.
3 Further, should any new witnesses and/or documents be disclosed, the other party may take the
4 depositions related to said witnesses or documents.

5 8. IT IS FURTHER STIPULATED AND AGREED that the parties may propound any
6 type of discovery as authorized by the Nevada Rules of Civil Procedure except that portion
7 regarding the time allowed for discovery as is made a part of the agreements set forth herein.

9 9. IT IS FURTHER STIPULATED AND AGREED that this agreement was formulated
10 and prepared as a mutual effort by the undersigned attorneys; thus, this agreement is not to be
11 construed or interpreted against any party.

12 10. IT IS FURTHER STIPULATED AND AGREED that if any disputes arise, either
13 pre- or post-Award, the parties shall submit their disputes to the Arbitrator for his/her
14 determination and shall be bound by any rulings made by the Arbitrator on such issues.

16 11. IT IS FURTHER STIPULATED AND AGREED that the parties shall submit their
17 Arbitration Briefs to the Arbitrator and the opposing party no later than three (3) days before the
18 Arbitration Hearing, including a list of witnesses and exhibits.

19 12. IT IS FURTHER STIPULATED AND AGREED that neither counsel nor the parties
20 may communicate directly with the Arbitrator regarding the merits of the case except in the
21 presence of or with reasonable notice to all parties involved.

23 13. IT IS FURTHER STIPULATED AND AGREED that no offer or demand made by
24 the parties shall be disclosed to the Arbitrator; and

25 14. IT IS FURTHER STIPULATED AND AGREED that the parties shall abide by the
26 rules and regulations of the Nevada Revised Statutes, Nevada Rules of Civil Procedure and
27 Nevada Arbitration Rules to the extent that said statutes and rules are not inconsistent with the
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1 expressed terms of this Agreement.

2 15. IT IS FURTHER STIPULATED AND AGREED that the parties will endeavor to
3 conduct the Arbitration Hearing within 6 months from the date of finalizing this Stipulation.

4 16. IT IS FURTHER STIPULATED AND AGREED that the arbitrator will issue an
5 award based on the total value of the claims of NOVELLA WELLINGTON and, thereafter, the
6 parties will deduct the \$100,000 offset due American Family Mutual Insurance, from the
7 tortfeasor's insurance policy, from said award by the arbitrator.
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10 DATED this 2nd day of August, 2010.

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12 ATKIN WINNER & SHERROD

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17 Matthew Douglas
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21 Attorneys for AMERICAN FAMILY

22 HARDING LAW OFFICES

23 Sam Harding
24 Harding Law Offices
1100 E. Bridger
25 Las Vegas, NV 89101
Attorney for Plaintiff

26 IT IS SO ORDERED this 13th day of August, 2010.

27
28 Gloria M. Navarro
United States District Judge